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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,064	01/10/2006	Salvatore Daidone	284222US0PCT	3939

22850 7590 11/27/2009  
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER
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GEORGE, PATRICIA ANN

ART UNIT	PAPER NUMBER
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1794

NOTIFICATION DATE	DELIVERY MODE
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11/27/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/564,064	<b>Applicant(s)</b> DAIDONE, SALVATORE	
	<b>Examiner</b> Patricia A. George	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 5-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, and 9-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

*Please note that this case has been assigned to a different examiner.*

#### ***Response to After Final Amendment***

The amendment filed on 11/13/2009 is sufficient to overcome the 35 U.S.C. 102(b) rejection of Narayan, and a new ground of rejection is offered below.

Applicant's arguments filed both on April 14, 2009 and again on 11/13/2009 regarding the reference of Narayan not anticipating claimed ranges of particle size or Mg ions has been considered, is found persuasive, and respectfully new grounds of rejection is offered below. The office agrees that the teaching of both parameters is broader than the claim ranges and although it may be argued that one of the end points is very close to a claimed end point, the reference does not appear to *anticipate* the combination of the ranges with sufficient specificity.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 3-4, 9-14, and 17-19 rejected under 35 U.S.C. 103(a) as being unpatentable over Narayan.**

Referring to claims 1 and 17-19, Narayan teaches a water-soluble salt tablet (page 8, line 18) comprising: between 20 to 99.9% by weight of NaCl, iodine, K ions, Ca ions, and Mg ions being present as the chlorides and/or sulphates thereof (page 2, line 9-18 and page 4, line 18-24).

Narayan teaches said tablets are form from dehydrated granules having a particles size range from 0.5 mm to 5.0 mm (page 7, line 28), which encompass and makes obvious the claimed range of 0.8 mm to 1.1 mm.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the salt composition, as Narayan, to include the any range of particulate size known to be effective in a salt composition, including the claimed range of 0.8 mm to 1.1 mm, because the reference of Narayan teaches a range that encompasses the claimed range and therefore makes it obvious.

Narayan teaches Mg ions are present in an amount between 0 to 10% by weight of soluble chloride or sulphate salt of magnesium (page 6, line 9-10).

Based on Narayan the disclosure the Mg ions would be present in quantities of about 0% and 2.5% by weight on a dry basis, as calculated based on the weight of the salts, which encompasses and makes obvious the claimed range of 0.4 to 0.9% by dry weight

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the salt composition, as Narayan, to include the any range of Mg ion known to be effective in a salt composition, including the claimed range of 0.4 to 0.9 % by dry weight, because the reference of Narayan teaches a range that encompasses the claimed range and therefore makes it obvious.

As to claim 3, Narayan et al. teaches a predetermined weight as shown by the disclosure on page 4, lines 18-27.

As to claim 4, Narayan et al. teaches the water-soluble salt tablet is a natural integral sea salt (page 1, line 10 and 13).

As to claims 9-10, Narayan discloses an edible salt comprising 20 to 99.9% by weight sodium chloride (page 6, line 7).

As to claims 11-14, Narayan discloses an edible salt wherein K ions are present between 0.1 to 80% by weight potassium chloride and Ca ions are present between 0 to 10% by weight of water soluble chloride or sulphate salt of calcium (page 3, line 21-23).

**Claims 2 and 15-16 rejected under 35 U.S.C. 103(a) as being unpatentable over Narayan, as cited in claims 1, 3-4, 9-14, and 17-19 above, in view of Aquaron.**

Referring to claims 2 and 15-16, Narayan. teaches the salt tablets comprise K ions are present between 0.1 to 80% by weight potassium chloride; and a quantity of Ca

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ions between 0 to 10% by weight of water soluble chloride or sulphate salt of calcium (page 3, line 21-23).

Narayan teaches the use of iodine (page 3, line 9-11) at a level that meets the statutory requirement level of iodine in salt.

Narayan et al. fails to explicitly disclose the composition of iodine between 0.00053% and 0.0012%.

The reference by R. Aquaron discloses that the iodine content in salt water varies with various locations and since the claim does not include any particular location and based on the knowledge that sea salt contains trace amounts of iodine as shown in the disclosure of R. Aquaron, the mandatory iodine level in salt would be expected to be met by Narayan (see page 3, line 10).

Furthermore, Aquaron discloses iodine is a very important trace element, necessary for the biosynthesis of thyroid hormones (see page 1, column 1, para 1), where current iodization levels according to specific country legislation vary from 20 to 100 ppm of KI or KIO<sub>3</sub> (page 6, column 1, para. 2).

It would have been obvious that iodine would be present in the amount claimed, as a result effective variable based on geographical location.

Again, Narayan discloses the iodine in salt would be expected to meet the requirement and it would not be unreasonable, absent a showing to the contrary, that the combined references disclose the amount of the instant claims.

***Response to Arguments***

Although applicant opinion is appreciated, in regard to the traversal of a obviousness rejection on the basis of superior and unexpected results, no evidence appear to be provided which substantiates the claim of unexpected results, and the rejections as submitted make obvious the claimed composition. Further, it has been held that a similar composition will have similar properties.

***Conclusion***

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571) 272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Patricia A George  
Examiner  
Art Unit 1794

/Patricia A George/  
Examiner, Art Unit 1794

/Keith D. Hendricks/  
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